

CASE # P19008

COURT: MADISON COUNTY COURT

04/05/2019

CAUSE: DEC EST-INDEPENDENT ADMIN
ESTATE BILLY JOE COLWELL

APPLICANT

NAME

MANNING, TIMOTHY WAYNE

P

6608 HALLIDAY LANE

MADISONVILLE, TX 77864

ATTORNEYTINSLEY, ALAN L.
201 SOUTH MADISON
P. O. BOX 160
MADISONVILLE, TX 77864
936-348-2601

ESTATE

NAME

COLWELL, BILLY JOE

D

ATTORNEY

TRANSACTIONS FOR ALL PARTIES

REPORT FOR ALL DATES

03/11/2019 MANNING, TIMOTHY WA	APPLICATION FOR PROBATE OF WILL AND ISSUANCE OF LETTER TESTAMENTARY - COPY OF WILL	I 15
03/11/2019 MANNING, TIMOTHY WA	CHARGES ASSESSED BY EFILE EFILE ENVELOPE ID:31829062	355.00-
03/11/2019 MANNING, TIMOTHY WA	PAYMENT RECEIVED THRU EFILE EFILE SUBMITTER ID: ALEWINE, AMBER COURT ID: MADISO	355.00
03/11/2019 MANNING, TIMOTHY WA	ORIGINAL LAST WILL AND TESTAMENT/HE	I 12
03/11/2019 MANNING, TIMOTHY WA	CITATION BY POSTING/HE	I 1
04/01/2019 MANNING, TIMOTHY WA	ORDER PROBATING WILL AND AUTHORIZING LETTERS TESTAMENTARY/SM	I 2
04/01/2019 MANNING, TIMOTHY WA	PROOF OF DEATH AND OTHER FACTS/SM	I 1
04/01/2019 MANNING, TIMOTHY WA	OATH/SM	I 2
04/01/2019 MANNING, TIMOTHY WA	ISSUED 5 LETTERS TESTAMENTARY/SM	

P19008

Susanne Morris

NO. _____

ESTATE OF § **IN THE COUNTY COURT**
BILLY JOE COLWELL, § **OF**
DECEASED § **MADISON COUNTY, TEXAS**

APPLICATION FOR PROBATE OF WILL
AND ISSUANCE OF LETTERS TESTAMENTARY

TO THE HONORABLE JUDGE OF SAID COURT:

TIMOTHY WAYNE MANNING ("Applicant") furnishes the following information to the Court in support of this Application for the Probate of the written Will of BILLY JOE COLWELL ("Decedent"), and for issuance of Letters Testamentary:

I.

Applicant is an individual interested in this Estate, domiciled and residing at 6608 Halliday Lane, Madisonville, Texas 77864. The last three digits of Applicant's Texas driver's license are 573 and the last three digits of her social security number are 323.

II.

Decedent died on March 3, 2019, in Madison County Texas, at the age of seventy-seven (77) years. The last three digits of Decedent's Texas identification card are 425 and the last three digits of his social security number are 345.

III.

This Court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in this county on the date of his death.

No. _____

Application for Probate of Will and Issuance of Letters Testamentary

Estate of Billy Joe Colwell, Deceased

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IV.

Decedent owned property described generally as real estate, cash, personal effects and household goods of a probable value in excess of \$50,000.00.

V.

Decedent left a valid written Will (the "Will") dated September 26, 2018, which was never revoked and is filed herewith.

VI.

The Will was made self proved in the manner prescribed by law and the subscribing witnesses to the Will were Samantha King, whose mailing address is 401 C'Villa Circle, Centerville, Texas 75833 and Jacqueline Searcy, whose mailing address is 8023 Cattle Trail Road, Madisonville, Texas 75852.

VII.

No child or children were born to or adopted by Decedent after the date of the Will.

VIII.

Decedent was not married after the date of the Will.

IX.

A necessity exists for the administration of this estate.

X.

Decedent's Will named neither the State of Texas, a governmental agency of the State of Texas nor a charitable organization as a devisee.

XI.

Decedent's Will named Applicant to serve as Independent Executrix of Decedent's Will and Estate. Applicant desires to be appointed Independent Executrix of this Estate and that Letters

Testamentary be issued to him. He would not be disqualified by law from serving as such or from accepting Letters Testamentary, and Applicant would be entitled to such Letters.

Prayer

Applicant prays that citation issue as required by law to all persons interested in this Estate; that the Will be admitted to probate; that Letters Testamentary be issued to Applicant; and that all other orders be entered as the Court may deem proper.

Respectfully submitted,

/s/ Alan L. Tinsley

ALAN L. TINSLEY
SBOT#20060700
201 South Madison / P. O. Box 160
Madisonville, Texas 77864
Telephone: (936) 348-2601
Facsimile: (936) 348-2761
Email: alan@altpc.net

ATTORNEY FOR APPLICANT

LAST WILL AND TESTAMENT**OF****BILLY JOE COLWELL**

I, BILLY JOE COLWELL, a resident of Madison County, Texas, being over eighteen (18) years of age and of sound and disposing mind and memory, do hereby make, publish and declare this my Last Will and Testament, hereby revoking any and all other wills and codicils heretofore by me at any time made.

ARTICLE I.**Payment of Debts**

I direct that all my legal debts, funeral expenses, administration expenses incurred in the administration of my estate, and any inheritance and estate taxes imposed by reason of my death shall be paid by my Executor out of my estate as soon as practicable after my death.

ARTICLE II.**Identification of Family**

I am single, my wife having predeceased me. I have three (3) children now living whose names are LISA D. WIESE, JODI COLWELL CARROLL and BILLY CRAIG COLWELL. All references in this Will to "my child," "my children" or similar terms shall apply to them and any child born to or adopted by me after the execution of this will. I have no deceased children.

ARTICLE III.**Appointment and Powers of Independent Executor**

3.01. I hereby designate and appoint TIM MANNING to serve as Independent Executor of this Will. If he is unable or unwilling to act or to continue to act in that capacity, then I appoint DONNIE COLWELL as substitute or successor Independent Executor of this Will. Should DONNIE COLWELL be unwilling or unable to serve or to continue to serve in such capacity,

then I appoint NOLAN GLASS to so serve. I direct that no action shall be taken in any court in the administration of my estate other than the probating and recording of this Will and the return of an Inventory, Appraisement and List of Claims of my estate. My Independent Executor or Executrix, whether original, substitute or successor, is hereafter referred to as my "Executor."

3.02. No bond or other security shall be required of any Executor appointed in this Will.

3.03. My Executor shall have, in extension and not in limitation of the powers given Executors by law, all powers conferred on Trustees by the Texas Trust Code or by other provisions of this Will (or granted to the Trustee hereunder), the following powers with respect to the settlement of my estate, to be exercised in each case from time to time in the discretion of my Executor without further order or license of any court:

(a) To retain any and all property received for as long as such retention appears advisable;

(b) To invest and reinvest in stocks, shares and obligations of corporations, of unincorporated associations or trusts and of investment companies or in any other kind of personal or real property, notwithstanding the fact that any or all of the investments made are of a character or size which but for this expressed authority would not be considered proper for executors;

(c) To hold securities or other estate property in the name of my Executor as Executor or in my Executor's own name or in the name of a nominee or unregistered in a condition where ownership will pass by delivery;

(d) To continue and operate, to sell or to liquidate, as my Executor deems advisable at the risk of my estate, any business or partnership interest received by my estate;

(e) To sell for cash or on deferred payments at public or private sale, to exchange, and to convey any portion of my estate, real, personal, or mixed, except for property specifically given by the terms of this Will, at the time or price and on the terms and conditions which my Executor may determine;

(f) To lease any real or personal property of my estate for any purpose for terms within or extending beyond the term of the settlement of my estate;

(g) To manage, control, improve and repair real and personal property belonging to my estate;

(h) To procure and carry at the expense of my estate insurance of the kinds, forms and amounts deemed advisable by my Executor to protect my estate and my Executor against any hazard;

(i) To enforce any deed of trust, mortgage, or pledge held by my estate and to purchase at any sale thereunder any property subject to any such hypothecation;

(j) To compromise, submit to arbitration, release with or without consideration, or otherwise adjust claims in favor of or against my estate;

(k) To commence or defend at the expense of my estate any litigation affecting my estate deemed advisable by my Executor;

(l) To enter into oil, gas and other mineral leases on terms deemed advisable by my Executor, and to enter into any pooling, unitization, repressurization, community and other types of agreements relating to the exploration, development, operation, and conservation of mineral properties; to drill, mine, and otherwise operate for the development of oil, gas, and other minerals, to contract for the installation and operation of absorption and repressuring plants, and to install and maintain pipelines.

(m) To purchase from, borrow from, sell to, and generally to deal with themselves individually and as a fiduciary of my estate, or with partnerships, corporations, and financial or business organizations in which they may own an interest;

(n) To carry out the terms of any valid agreement which I may have entered into during my lifetime concerning property which I may own at my death.

3.04. In making distribution of my Estate, my Executor shall be authorized to allocate to such distributee, either real, personal or mixed properties, or any combination thereof, and the properties identical in kind and amount need not be allocated to all such distributees, and the decision of my Executor shall be conclusive and binding upon all beneficiaries hereunder.

ARTICLE IV. Disposition of Estate

4.01. From time to time, I may attach a list of instructions to this Will as to the distribution of certain items of my personal property which I want to go to family, friends or others. I direct that my Executor make distributions of this property as set forth in the instructions attached to this Will on the date of my death. In the event no list of instructions is located within 30 days from the date of my death, it shall be conclusively presumed that no such list exists.

4.02. I give, devise and bequeath the sum of \$7,000.00 to my son, BILLY CRAIG COLWELL.

4.03. I give, devise and bequeath the mobile home currently located at 6154 Apple Lane, Madisonville, Texas to COURT JOHNSON and AMBER BOREN, share and share alike.

4.04 I give, devise and bequeath the rest, remainder and residue of my property to AMBER BOREN.

4.05. If property would be distributed to a beneficiary if he or she were to survive me, or to survive until the termination of a trust, and that beneficiary has died leaving lineal

descendants, then notwithstanding any contrary direction of disposition in this Will, the share to which that deceased beneficiary would have been entitled shall pass to his or her lineal descendants, per stirpes.

4.06. If property is to pass upon my death or upon termination of a Trust, to a beneficiary who has not attained the age of thirty (30) years, then notwithstanding any inference in this Will that it is to pass free of trust, that property shall be held in a separate Trust for that beneficiary. The Trust Estate of each Trust created pursuant to this Paragraph shall be distributed as follows:

- (a) My Trustee shall pay to the beneficiary for whom the Trust is created the amounts out of the net income and, if net income is insufficient, the amounts out of principal of the Trust that my Trustee determines are necessary for the health, education, maintenance or support of that beneficiary.
- (b) My Trustee shall deliver the remaining Trust Estate to that beneficiary free of trust, when that beneficiary attains the age of twenty-five (25) years.
- (c) If the beneficiary dies during the term of the Trust, then the Trust shall terminate and the Trust Estate shall be distributed per stirpes to the then living lineal descendants of that beneficiary. If that beneficiary dies not survived by lineal descendants, the Trust Estate shall be distributed per stirpes to the then living lineal descendants of the nearest ancestor of that beneficiary descended from me who is then survived by lineal descendants.

4.07. I give, devise and bequeath any property owned by me at the time of my death which is not disposed of by the previous Parts and Paragraphs to my heirs at law.

ARTICLE V.
Provisions Relating to Trustee

5.01. During the term of any trust created hereunder other than the Tampke Real Estate Trust, the Trustee may accumulate and retain all or any part of the income thereof, or the Trustee may pay or expend all or any part of the income thereof, or any part or all of the principal thereof, as the Trustee, in his sole discretion, may deem to be necessary for the reasonable care, support, maintenance, education or comfort of the person or persons for whom such trust is created, unless specific restrictions are set forth herein regarding a specific trust.

5.02. Unless sooner terminated in the manner herein provided, any trust created hereby shall terminate twenty-one (21) years after the death of the survivor of my descendants who are living at the date of my death. Upon such termination, the entire trust estate shall be distributed to the persons for whom such estate is then held in trust, in proportion to the trusts then held for such persons. If there are no such persons surviving, then such trust estate shall be distributed to my heirs, determined according to the provisions of the Statutes of Descent and Distribution of the State of Texas with respect to each type of property being distributed.

ARTICLE VI.
Designation and Powers of Trustee

6.01 I hereby designate and appoint TIM MANNING to serve as Trustee of all Trusts created under this Will. Provided, however, should he be unable or unwilling to act or to continue to act in that capacity, then DONNIE COLWELL shall serve as Trustee. Should DONNIE COLWELL be unwilling or unable to serve or to continue to serve in such capacity, then I appoint NOLAN GLASS to so serve. In the event none of the named individuals are able or willing to serve or to continue to serve in such capacity, a successor Trustee shall be appointed pursuant to Paragraph VII below. In addition to the rights, powers, privileges and discretions granted to my

Trustee by this Will or by law, my Trustee shall have the following rights, privileges, discretions and powers:

- (a) The Trustee shall have the full power to hold, manage and control the Trust Estate and to exercise all power to that end, and shall have the power to sell for cash or credit, or both, to convey, lease, rent, mortgage, exchange, invest and reinvest, all of the properties constituting the Trust Estate and the proceeds thereof, from time to time, upon such terms as to it may seem to be to the best interest of the Trust Estate, with the power to execute and deliver all necessary and proper agreements, releases, assignments, conveyances, leases, deeds and other instruments necessary or proper in the exercise of the trust powers herein conferred.
- (b) The Trustee shall, out of the Trust Estate, pay any and all reasonable expenses which may be necessary or proper in the management and preservation of the Trust Estate, including taxes.
- (c) In the administration of this Trust, the Trustee shall never be liable for exercise of discretion or mistake of judgment made in good faith. The Trustee shall have the right to employ attorneys when it is deemed by the Trustee to be necessary in the administration of this Trust, and to rely upon the advice of such attorneys; further, the Trustee shall have the authority to pay, out of the Trust Estate, all reasonable fees for the services of such attorneys.
- (d) In making distribution of the Trust Estate upon the termination of such trust, the Trustee shall be authorized to allocate to such distributee, either real, personal or mixed properties, or any combination thereof, and the properties identical in kind and

amount need not be allocated to all such distributees, and the decision of the Trustee shall be conclusive and binding upon all beneficiaries hereunder.

(e) No bond or other security shall be required of any Trustee, whether original or successor, at any time serving as Trustee of any trust hereby created.

(f) No principal or income payable or to become payable under the Trust created herein shall be subject to anticipation or assignment by any beneficiary thereto or to attachment by or to the interference or control of any creditor of any beneficiary or to be reached or taken by any legal or equitable process in satisfaction of any debt or liability of any beneficiary prior to its actual receipt by such beneficiary.

(g) As to the distribution made in the course of the provisions hereof, my Trustee may, in his discretion, make such distribution to any such person in any one or more of the following ways:

- (1) To any person directly;
- (2) To the guardian, committee, conservator, or other similar officials of the minor or incapacitated person;
- (3) To a relative of the minor or incapacitated person to be expended by such relative for the care, support, maintenance, education or comfort of such person; and
- (4) By expending the same directly for the care, support, maintenance, education or comfort of such person.

ARTICLE VII. Successor Fiduciaries

If at any time no Independent Executor is then serving and no one appointed above is willing and able so to serve, then a successor Independent Executor shall be

appointed according to the terms of this Paragraph by a written instrument filed with the records of my estate. Any Executor so appointed shall have the same powers, rights, privileges, duties, immunities and liabilities as the Executor or Trustee originally named. The following grants of authority to appoint a successor fiduciary shall be exercised consecutively. No such appointment shall be valid so long as any person described in a preceding Subparagraph is willing and able to appoint a successor fiduciary. Any Independent Executor appointed pursuant to this Paragraph shall be a lineal descendant of my grandparents or a state or national bank or trust association whose total trust assets under management are not less than Fifty Million Dollars (\$50,000,000.00) and, in the case of a Trustee, if practicable and not objected to by the beneficiary, whose principal place of business is in the state and preferably the county in which a beneficiary of that Trust is then residing.

- (a) TIM MANNING may appoint a successor Independent Executor of my Estate, or successor Trustee of any Trust, as the case may be.
- (b) DONNIE COLWELL may appoint a successor Independent Executor of my Estate, or successor Trustee of any Trust, as the case may be.
- (c) NOLAN GLASS may appoint a successor Independent Executor of my Estate, or successor Trustee of any Trust, as the case may be.
- (d) A majority of the then living income beneficiaries of any Trust (acting in the case of a beneficiary under a legal disability through such beneficiary's guardian) may appoint a successor Trustee of that Trust.

ARTICLE VIII.

Survival

For the purpose of this Will, no person shall be deemed to have survived me if such person dies within thirty (30) days of my death.

ARTICLE IX.

Context

As used in this Will, whenever the context so indicates, the masculine, feminine, or neuter gender, and a singular or plural number shall be deemed to include the others.

ARTICLE X.

Invalid, Illegal or Inoperative Provisions

If any part of this Will or any Trust hereby created shall be invalid, illegal or inoperative, for any reason, it is my intention that the remaining parts, so far as possible and reasonable, shall be effective and fully operative. My Executor may seek and obtain Court instructions for the purpose of carrying out as nearly as may be possible the intentions of this Will as shown by the terms hereof, including the terms held invalid, illegal and inoperative.

ARTICLE XI.

In Terrorem Clause

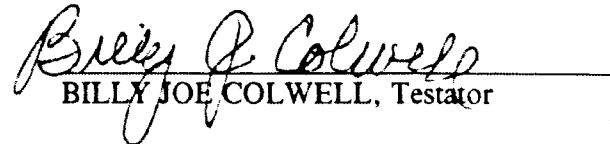
If any person, whether or not related in any way by blood to me, shall either directly or indirectly attempt to oppose or set aside the probate of this Will or to impair or invalidate any of the provisions hereof any such person shall establish a right to any part of my estate, I give, devise and bequeath to such person the sum of ONE DOLLAR (\$1.00) only and no further interest whatsoever in my estate.

Billy Joe Colwell
Last Will and Testament
Page 10 of 12 Pages


B.J.C.

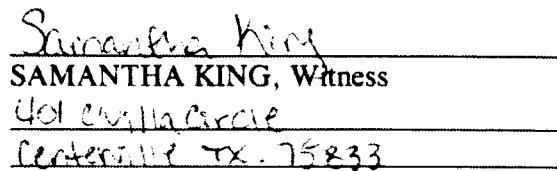
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IN WITNESS WHEREOF, I have hereunto set my hand at Madisonville, Madison County, Texas, this 26th day of September, 2018, in the presence of SAMANTHA KING and JACQUELINE SEARCY, who signed their names hereunto as attesting witnesses at my request, in my presence and in the presence of each other.

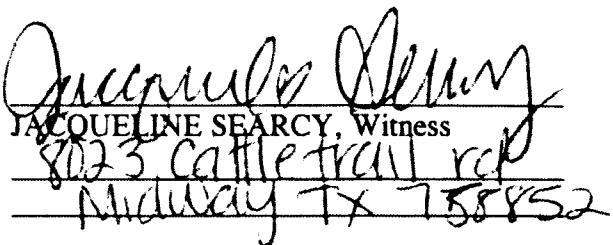


BILLY JOE COLWELL, Testator

On the 26th day of September, 2018, BILLY JOE COLWELL declared to us, the undersigned SAMANTHA KING and JACQUELINE SEARCY, being each more than fourteen (14) years of age, that the foregoing was his Last Will and he requested us to act as Witnesses to the same and to his signature thereon. He thereupon signed said Will in our presence, we being present at the same time, and we now at his request and in his presence and in the presence of each other do hereunto subscribe our names as Witnesses.



SAMANTHA KING, Witness
401 Cattail Circle
Centerville TX 75833



JACQUELINE SEARCY, Witness
8023 Cattle Trail rd
Midway TX 758852

THE STATE OF TEXAS §
 §
COUNTY OF MADISON §

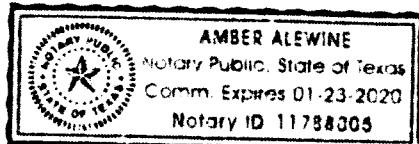
BEFORE ME, the undersigned authority, on this day personally appeared BILLY JOE COLWELL, SAMANTHA KING and JACQUELINE SEARCY, known to me to be the Testator and the Witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of such persons being by me duly sworn, the said Testator declared to me and to the Witnesses in my presence that said instrument is his Last Will and Testament and that he had willingly made and executed it as his free act and deed; and that said Witnesses on their respective oaths stated to me, in the presence and hearing of said Testator that the said Testator had declared to them that said instrument is his Last Will and Testament and that he executed the same as such and wanted each of them to sign it as a Witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at his request; and that he was at that time over eighteen (18) years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

Billy Joe Colwell
BILLY JOE COLWELL, Testator

Samantha King
SAMANTHA KING, Witness

Jacqueline Sarcy
JACQUELINE SEARCY, Witness

SUBSCRIBED AND ACKNOWLEDGED BEFORE ME by the said BILLY JOE COLWELL, Testator, and subscribed and sworn to before me by the said SAMANTHA KING and JACQUELINE SEARCY, witnesses, this 26th day of September, 2018.



Amber Alewine
NOTARY PUBLIC in and for
THE STATE OF TEXAS

[Print this page](#)

Envelope 31829062

Case Information

Location Madison County - County Clerk
Date Filed 3/11/2019 11:02 AM
Case Number
Case Description
Assigned to Judge
Attorney Alan L. Tinsley
Firm Name Alan L. Tinsley, P.C.
Filed By Amber Alewine
Filer Type Not Applicable

Fees

Convenience Fee	\$10.26
Total Court Case Fees	\$355.00
Total Court Party Fees	\$0.00
Total Court Filing Fees	\$0.00
Total Court Service Fees	\$0.00
Total Filing & Service Fees	\$0.00
Total Provider Service Fees	\$0.00
Total Provider Tax Fees	\$0.00
Total Taxes (for non-court fees)	\$0.00
Grand Total	\$365.26

Payment

Account Name Mastercard
Transaction Amount \$365.26
Transaction Response
Transaction ID 47836583
Order # 031829062-0

Application

Filing Type EFile
Filing Code Application
Filing Description Application for Probate of Will and Issuance of Letters Testamentary
Reference Number
Comments Thank you! Amber (936) 348-2601
Status Submitted
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Fees

Court Fee	\$0.00
Service Fee	\$0.00

Documents

<i>Lead Document</i>	Application for LT.pdf	<u>[Original]</u>
<i>Attachments</i>	LWT.pdf	<u>[Original]</u>

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LAST WILL AND TESTAMENT

AT 10:05 FILED
O'CLOCK A M

MAR 11 2019

OF
BILLY JOE COLWELL

BY SUSANNE MORRIS, County Clerk
Heidi Ellis
DEPUTY, MADISON COUNTY, TEXAS

HEIDI ELLIS

I, BILLY JOE COLWELL, a resident of Madison County, Texas, being over eighteen (18) years of age and of sound and disposing mind and memory, do hereby make, publish and declare this my Last Will and Testament, hereby revoking any and all other wills and codicils heretofore by me at any time made.

ARTICLE I.
Payment of Debts

I direct that all my legal debts, funeral expenses, administration expenses incurred in the administration of my estate, and any inheritance and estate taxes imposed by reason of my death shall be paid by my Executor out of my estate as soon as practicable after my death.

ARTICLE II.
Identification of Family

I am single, my wife having predeceased me. I have three (3) children now living whose names are LISA D. WIESE, JODI COLWELL CARROLL and BILLY CRAIG COLWELL. All references in this Will to "my child," "my children" or similar terms shall apply to them and any child born to or adopted by me after the execution of this will. I have no deceased children.

ARTICLE III.
Appointment and Powers of Independent Executor

3.01. I hereby designate and appoint TIM MANNING to serve as Independent Executor of this Will. If he is unable or unwilling to act or to continue to act in that capacity, then I appoint DONNIE COLWELL as substitute or successor Independent Executor of this Will. Should DONNIE COLWELL be unwilling or unable to serve or to continue to serve in such capacity,

Billy Joe Colwell
Last Will and Testament

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B.J.C.
B.J.C.

then I appoint NOLAN GLASS to so serve. I direct that no action shall be taken in any court in the administration of my estate other than the probating and recording of this Will and the return of an Inventory, Appraisement and List of Claims of my estate. My Independent Executor or Executrix, whether original, substitute or successor, is hereafter referred to as my "Executor."

3.02. No bond or other security shall be required of any Executor appointed in this Will.

3.03. My Executor shall have, in extension and not in limitation of the powers given Executors by law, all powers conferred on Trustees by the Texas Trust Code or by other provisions of this Will (or granted to the Trustee hereunder), the following powers with respect to the settlement of my estate, to be exercised in each case from time to time in the discretion of my Executor without further order or license of any court:

- (a) To retain any and all property received for as long as such retention appears advisable;
- (b) To invest and reinvest in stocks, shares and obligations of corporations, of unincorporated associations or trusts and of investment companies or in any other kind of personal or real property, notwithstanding the fact that any or all of the investments made are of a character or size which but for this expressed authority would not be considered proper for executors;
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- (d) To continue and operate, to sell or to liquidate, as my Executor deems advisable at the risk of my estate, any business or partnership interest received by my estate;

(e) To sell for cash or on deferred payments at public or private sale, to exchange, and to convey any portion of my estate, real, personal, or mixed, except for property specifically given by the terms of this Will, at the time or price and on the terms and conditions which my Executor may determine;

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Billy Joe Colwell
Last Will and Testament

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B.J.C.
B.J.C.

(m) To purchase from, borrow from, sell to, and generally to deal with themselves individually and as a fiduciary of my estate, or with partnerships, corporations, and financial or business organizations in which they may own an interest;

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Disposition of Estate

4.01. From time to time, I may attach a list of instructions to this Will as to the distribution of certain items of my personal property which I want to go to family, friends or others. I direct that my Executor make distributions of this property as set forth in the instructions attached to this Will on the date of my death. In the event no list of instructions is located within 30 days from the date of my death, it shall be conclusively presumed that no such list exists.

4.02. I give, devise and bequeath the sum of \$7,000.00 to my son, BILLY CRAIG COLWELL.

4.03. I give, devise and bequeath the mobile home currently located at 6154 Apple Lane, Madisonville, Texas to COURT JOHNSON and AMBER BOREN, share and share alike.

4.04 I give, devise and bequeath the rest, remainder and residue of my property to AMBER BOREN.

4.05. If property would be distributed to a beneficiary if he or she were to survive me, or to survive until the termination of a trust, and that beneficiary has died leaving lineal

descendants, then notwithstanding any contrary direction of disposition in this Will, the share to which that deceased beneficiary would have been entitled shall pass to his or her lineal descendants, per stirpes.

4.06. If property is to pass upon my death or upon termination of a Trust, to a beneficiary who has not attained the age of thirty (30) years, then notwithstanding any inference in this Will that it is to pass free of trust, that property shall be held in a separate Trust for that beneficiary. The Trust Estate of each Trust created pursuant to this Paragraph shall be distributed as follows:

- (a) My Trustee shall pay to the beneficiary for whom the Trust is created the amounts out of the net income and, if net income is insufficient, the amounts out of principal of the Trust that my Trustee determines are necessary for the health, education, maintenance or support of that beneficiary.
- (b) My Trustee shall deliver the remaining Trust Estate to that beneficiary free of trust, when that beneficiary attains the age of twenty-five (25) years.
- (c) If the beneficiary dies during the term of the Trust, then the Trust shall terminate and the Trust Estate shall be distributed per stirpes to the then living lineal descendants of that beneficiary. If that beneficiary dies not survived by lineal descendants, the Trust Estate shall be distributed per stirpes to the then living lineal descendants of the nearest ancestor of that beneficiary descended from me who is then survived by lineal descendants.

4.07. I give, devise and bequeath any property owned by me at the time of my death which is not disposed of by the previous Parts and Paragraphs to my heirs at law.

ARTICLE V.
Provisions Relating to Trustee

5.01. During the term of any trust created hereunder other than the Tampke Real Estate Trust, the Trustee may accumulate and retain all or any part of the income thereof, or the Trustee may pay or expend all or any part of the income thereof, or any part or all of the principal thereof, as the Trustee, in his sole discretion, may deem to be necessary for the reasonable care, support, maintenance, education or comfort of the person or persons for whom such trust is created, unless specific restrictions are set forth herein regarding a specific trust.

5.02. Unless sooner terminated in the manner herein provided, any trust created hereby shall terminate twenty-one (21) years after the death of the survivor of my descendants who are living at the date of my death. Upon such termination, the entire trust estate shall be distributed to the persons for whom such estate is then held in trust, in proportion to the trusts then held for such persons. If there are no such persons surviving, then such trust estate shall be distributed to my heirs, determined according to the provisions of the Statutes of Descent and Distribution of the State of Texas with respect to each type of property being distributed.

ARTICLE VI.
Designation and Powers of Trustee

6.01 I hereby designate and appoint TIM MANNING to serve as Trustee of all Trusts created under this Will. Provided, however, should he be unable or unwilling to act or to continue to act in that capacity, then DONNIE COLWELL shall serve as Trustee. Should DONNIE COLWELL be unwilling or unable to serve or to continue to serve in such capacity, then I appoint NOLAN GLASS to so serve. In the event none of the named individuals are able or willing to serve or to continue to serve in such capacity, a successor Trustee shall be appointed pursuant to Paragraph VII below. In addition to the rights, powers, privileges and discretions granted to my

Trustee by this Will or by law, my Trustee shall have the following rights, privileges, discretions and powers:

(a) The Trustee shall have the full power to hold, manage and control the Trust Estate and to exercise all power to that end, and shall have the power to sell for cash or credit, or both, to convey, lease, rent, mortgage, exchange, invest and reinvest, all of the properties constituting the Trust Estate and the proceeds thereof, from time to time, upon such terms as to it may seem to be to the best interest of the Trust Estate, with the power to execute and deliver all necessary and proper agreements, releases, assignments, conveyances, leases, deeds and other instruments necessary or proper in the exercise of the trust powers herein conferred.

(b) The Trustee shall, out of the Trust Estate, pay any and all reasonable expenses which may be necessary or proper in the management and preservation of the Trust Estate, including taxes.

(c) In the administration of this Trust, the Trustee shall never be liable for exercise of discretion or mistake of judgment made in good faith. The Trustee shall have the right to employ attorneys when it is deemed by the Trustee to be necessary in the administration of this Trust, and to rely upon the advice of such attorneys; further, the Trustee shall have the authority to pay, out of the Trust Estate, all reasonable fees for the services of such attorneys.

(d) In making distribution of the Trust Estate upon the termination of such trust, the Trustee shall be authorized to allocate to such distributee, either real, personal or mixed properties, or any combination thereof, and the properties identical in kind and

amount need not be allocated to all such distributees, and the decision of the Trustee shall be conclusive and binding upon all beneficiaries hereunder.

(e) No bond or other security shall be required of any Trustee, whether original or successor, at any time serving as Trustee of any trust hereby created.

(f) No principal or income payable or to become payable under the Trust created herein shall be subject to anticipation or assignment by any beneficiary thereto or to attachment by or to the interference or control of any creditor of any beneficiary or to be reached or taken by any legal or equitable process in satisfaction of any debt or liability of any beneficiary prior to its actual receipt by such beneficiary.

(g) As to the distribution made in the course of the provisions hereof, my Trustee may, in his discretion, make such distribution to any such person in any one or more of the following ways:

(1) To any person directly;

(2) To the guardian, committee, conservator, or other similar officials of the minor or incapacitated person;

(3) To a relative of the minor or incapacitated person to be expended by such relative for the care, support, maintenance, education or comfort of such person; and

(4) By expending the same directly for the care, support, maintenance, education or comfort of such person.

ARTICLE VII. Successor Fiduciaries

If at any time no Independent Executor is then serving and no one appointed above is willing and able so to serve, then a successor Independent Executor shall be

Billy Joe Colwell

Last Will and Testament

Page 8 of 12 Pages

Cause No. P

B.J.C.
19008 Page 25

appointed according to the terms of this Paragraph by a written instrument filed with the records of my estate. Any Executor so appointed shall have the same powers, rights, privileges, duties, immunities and liabilities as the Executor or Trustee originally named. The following grants of authority to appoint a successor fiduciary shall be exercised consecutively. No such appointment shall be valid so long as any person described in a preceding Subparagraph is willing and able to appoint a successor fiduciary. Any Independent Executor appointed pursuant to this Paragraph shall be a lineal descendant of my grandparents or a state or national bank or trust association whose total trust assets under management are not less than Fifty Million Dollars (\$50,000,000.00) and, in the case of a Trustee, if practicable and not objected to by the beneficiary, whose principal place of business is in the state and preferably the county in which a beneficiary of that Trust is then residing.

- (a) TIM MANNING may appoint a successor Independent Executor of my Estate, or successor Trustee of any Trust, as the case may be.
- (b) DONNIE COLWELL may appoint a successor Independent Executor of my Estate, or successor Trustee of any Trust, as the case may be.
- (c) NOLAN GLASS may appoint a successor Independent Executor of my Estate, or successor Trustee of any Trust, as the case may be.
- (d) A majority of the then living income beneficiaries of any Trust (acting in the case of a beneficiary under a legal disability through such beneficiary's guardian) may appoint a successor Trustee of that Trust.

ARTICLE VIII.

Survival

For the purpose of this Will, no person shall be deemed to have survived me if such person dies within thirty (30) days of my death.

ARTICLE IX.

Context

As used in this Will, whenever the context so indicates, the masculine, feminine, or neuter gender, and a singular or plural number shall be deemed to include the others.

ARTICLE X.

Invalid, Illegal or Inoperative Provisions

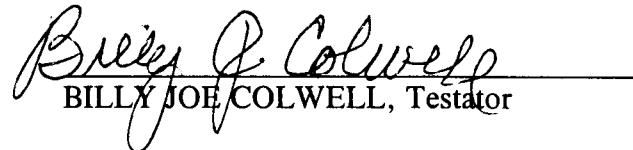
If any part of this Will or any Trust hereby created shall be invalid, illegal or inoperative, for any reason, it is my intention that the remaining parts, so far as possible and reasonable, shall be effective and fully operative. My Executor may seek and obtain Court instructions for the purpose of carrying out as nearly as may be possible the intentions of this Will as shown by the terms hereof, including the terms held invalid, illegal and inoperative.

ARTICLE XI.

In Terrorem Clause

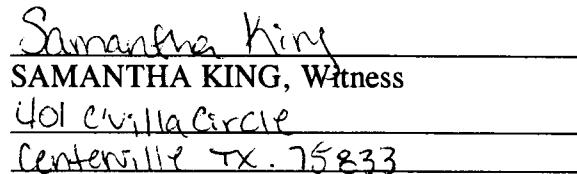
If any person, whether or not related in any way by blood to me, shall either directly or indirectly attempt to oppose or set aside the probate of this Will or to impair or invalidate any of the provisions hereof any such person shall establish a right to any part of my estate, I give, devise and bequeath to such person the sum of ONE DOLLAR (\$1.00) only and no further interest whatsoever in my estate.

IN WITNESS WHEREOF, I have hereunto set my hand at Madisonville, Madison County, Texas, this 26th day of September, 2018, in the presence of SAMANTHA KING and JACQUELINE SEARCY, who signed their names hereunto as attesting witnesses at my request, in my presence and in the presence of each other.

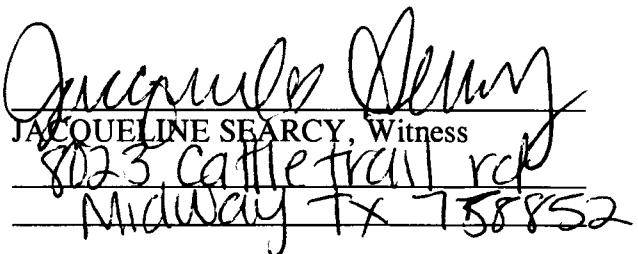


BILLY JOE COLWELL, Testator

On the 26th day of September, 2018, BILLY JOE COLWELL declared to us, the undersigned SAMANTHA KING and JACQUELINE SEARCY, being each more than fourteen (14) years of age, that the foregoing was his Last Will and he requested us to act as Witnesses to the same and to his signature thereon. He thereupon signed said Will in our presence, we being present at the same time, and we now at his request and in his presence and in the presence of each other do hereunto subscribe our names as Witnesses.



SAMANTHA KING, Witness
401 CIVILIA CIRCLE
Centerville TX 75833



JACQUELINE SEARCY, Witness
8023 Cattle trail rd
Midway TX 758852

THE STATE OF TEXAS §
§
COUNTY OF MADISON §

BEFORE ME, the undersigned authority, on this day personally appeared BILLY JOE COLWELL, SAMANTHA KING and JACQUELINE SEARCY, known to me to be the Testator and the Witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of such persons being by me duly sworn, the said Testator declared to me and to the Witnesses in my presence that said instrument is his Last Will and Testament and that he had willingly made and executed it as his free act and deed; and that said Witnesses on their respective oaths stated to me, in the presence and hearing of said Testator that the said Testator had declared to them that said instrument is his Last Will and Testament and that he executed the same as such and wanted each of them to sign it as a Witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at his request; and that he was at that time over eighteen (18) years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

Billy Joe Colwell

BILLY JOE COLWELL, Testator

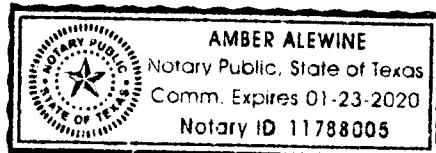
Samantha King

SAMANTHA KING, Witness

Jacqueline Searcy

JACQUELINE SEARCY, Witness

SUBSCRIBED AND ACKNOWLEDGED BEFORE ME by the said BILLY JOE COLWELL, Testator, and subscribed and sworn to before me by the said SAMANTHA KING and JACQUELINE SEARCY, witnesses, this 26th day of September, 2018.



Amber Alewine

NOTARY PUBLIC in and for
THE STATE OF TEXAS

CAUSE NO. P19008

CITATION ON APPLICATION TO PROBATE WILL AND FOR ISSUANCE OF
LETTERS TESTAMENTARY

THE STATE OF TEXAS

To any Sheriff or any Constable within the State of Texas -- GREETING:

YOU ARE HEREBY COMMANDED to cause to be posted for not less than TEN DAYS, exclusive of the day of posting, before the return day hereof, at the County Courthouse where public notices customarily are posted, a copy of the following notice:

THE STATE OF TEXAS TO ALL PERSONS INTERESTED IN THE ESTATE OF
BILLY JOE COLWELL, DECEASED, in **CAUSE NUMBER P19008**:

TIMOTHY WAYNE MANNING ("Applicant") has filed in the County Court of MADISON County, an application for the probate of the Last Will and Testament of said **BILLY JOE COLWELL**, ("Deceased"), and for issuance of Letters Testamentary.

Said application may be heard and acted on by said Court at 10:00 o'clock A.M., on the first Monday next after the expiration of ten days from date of posting this citation, the same being the 25th day of March, 2019, at the County Courthouse Annex, 103 W. Trinity Street, in MADISONVILLE, Texas.

All persons interested in said estate are hereby cited to appear before said Honorable Court at said above mentioned time and place by filing a written answer contesting such application should they desire to do so.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates hereof, and make due return as the law directs.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office, in MADISON COUNTY, MADISONVILLE, TEXAS, this 11th day of March, 2019.

(SEAL)

SUSANNE MORRIS
MADISON COUNTY CLERK
MADISONVILLE, TEXAS
Heidi Ellis
BY: HEIDI ELLIS- DEPUTY CLERK

OFFICER'S RETURN

Came to hand on 3/11/19 at 11:45 o'clock A M., and executed on 3/11/19, by posting a copy of the within citation for ten days, exclusive of the day of posting, before the return day hereof, at the County Courthouse of Madison County, Texas, at the place in the said courthouse where public notices customarily are posted.

W. J. Lee
CONSTABLE, PRECINCT NO. 2
MADISON COUNTY, TEXAS

Posting Citation ---- \$100.00

cause no P 19008 Page 30

ESTATE OF

§

3:35 P.M.
IN THE COUNTY COURT

BILLY JOE COLWELL,

§

APR 01 2019
(Signature)
SUSANNE MORRIS, County Clerk

DECEASED

§

MADISON COUNTY, TEXAS

ORDER PROBATING WILL AND
AUTHORIZING LETTERS TESTAMENTARY

On this day came on to be heard the Application (the "Application") filed by TIMOTHY WAYNE MANNING on March 11, 2019, for the probate of the Last Will and Testament (the "Will") of BILLY JOE COLWELL, hereinafter called ("Decedent"), and for the issuance of Letters Testamentary.

The Court, after having heard and considered the evidence, finds that legal notices of the filing of said Application have been issued and posted in the manner and for the length of time required by law, and no one came to contest same; that Decedent died in Madison County, Texas on March 3, 2019; that this Court has jurisdiction and venue over the estate because Decedent was domiciled in Texas and had a fixed place of resident in Madison County, Texas at the time of his death; that four years have not elapsed since the death of Decedent or prior to the filing of said Application; that Decedent, at the time of executing said Will was over eighteen (18) years of age and of sound mind; that said Will was executed on September 26, 2018; that the execution of the Will was witnessed by Samantha King and Jacqueline Searcy; that the Will was executed with the formalities and solemnities and under the circumstances required by law to make it a valid Will; that such Will has not been revoked by Decedent; that Decedent was not divorced after the execution of the Will; that no government agency of the state, nor charitable organization are named by the Will as a devisee; that Decedent's Will named TIMOTHY WAYNE MANNING to serve as

Independent Executor, without bond, in which capacity Applicant would not be disqualified by law from serving as such or from accepting Letters Testamentary, and Applicant would be entitled to such Letters.

IT IS THEREFORE, ORDERED AND DECREED by the Court that said Will is hereby proved and established and admitted to probate and recorded as the Last Will of BILLY JOE COLWELL, Deceased, and that TIMOTHY WAYNE MANNING be, and is hereby appointed Independent Executor of said Will and Estate without bond.

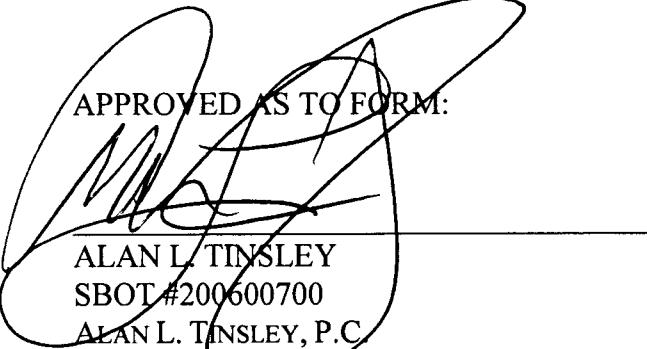
IT IS FURTHER ORDERED by the Court that Letters Testamentary upon the Will and Estate of BILLY JOE COLWELL, Deceased, be and the same are hereby granted to TIMOTHY WAYNE MANNING upon taking the oath as required by law; and the Clerk is further required to issue Letters Testamentary in accordance with this Order to TIMOTHY WAYNE MANNING when qualified according to law; and no other action shall be had in this Court other than the return of an Inventory, Appraisement and List of Claims as required by law.

SIGNED this 1st day of April, 2019.



JUDGE PRESIDING

APPROVED AS TO FORM:



ALAN L. TINSLEY
SBOT #200600700
ALAN L. TINSLEY, P.C.
201 S. Madison
Madisonville, Texas 77864
Telephone: 936.348.2601
Facsimile: 936.348.2761
Email: alan@altpc.net

ATTORNEY FOR THE ESTATE

FILED
AT 2:35 O'CLOCK P. M.

APR 01 2019
Susanne Morris
SUSANNE MORRIS, County Clerk
BY DEPUTY, MADISON COUNTY, TEXAS

NO. P19008

ESTATE OF § **IN THE COUNTY COURT OF**
§
BILLY JOE COLWELL, §
§
DECEASED § **MADISON COUNTY, TEXAS**

PROOF OF DEATH AND OTHER FACTS

On this day, TIMOTHY WAYNE MANNING ("Affiant") personally appeared in Open Court, and being duly sworn, stated the following:

I.

BILLY JOE COLWELL ("Decedent") died on March 3, 2019, in Madison County, Texas at the age of seventy-seven (77) years and four (4) years have not elapsed since the date of Decedent's death.

II.

Decedent was domiciled and had a fixed place of residence in Madison County, Texas on the date of his death.

III.

"The document dated September 26, 2018, now shown to me and which purports to be Decedent's Will was never revoked as far as I know.

IV.

"There were no children born to or adopted by Decedent after the date of the Will.

V.

"Decedent was not divorced after the date of the Will.

FILED
AT 3:35 O'CLOCK P. M.

CAUSE NO. P19008

APR 01 2019
Susanne Morris
SUSANNE MORRIS, County Clerk

ESTATE OF

IN THE COUNTY COURT OF

BILLY JOE COLWELL,

§
§
§
§

DECEASED

MADISON COUNTY, TEXAS

OATH

I, TIMOTHY WAYNE MANNING, do solemnly swear that the writing which has been offered for probate is the Last Will of BILLY JOE COLWELL, so far as I know or believe, and that I will well and truly perform all the duties as Independent Executor of the Will and of the Estate of BILLY JOE COLWELL, Deceased.

Timothy W Manning
TIMOTHY WAYNE MANNING

SWORN TO AND SUBSCRIBED BEFORE ME on this the 1st day of April, 2019, by the said TIMOTHY WAYNE MANNING, in the capacity therein stated.

Susanne Morris
SUSANNE MORRIS, County Clerk
MADISON COUNTY, TEXAS

By: _____
Deputy

VI.

"No state, governmental agency of the state, nor charitable organization was named by the Will as a devisee.

VII.

"A necessity exists for the administration of this Estate.

VIII.

"Decedent's Will named Affiant to serve as Independent Executor without bond. Affiant is not disqualified by law from accepting Letters Testamentary or from serving as Independent Executor of this Estate and is entitled to such Letters."

SIGNED this 1st day of April, 2019.


TIMOTHY WAYNE MANNING, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME by TIMOTHY WAYNE MANNING on this 1st day of April, 2019, to certify which witness my hand and seal of office.



SUSANNE MORRIS, Clerk of the County Court of MADISON COUNTY, TEXAS

By: _____
Deputy

P19 008
CASE NO

PROBATE DOCKET

CASE NO. PI9008 ESTATE OF Billy Joe Colwell - Deceased

Name of Applicant, Administrator
Guardian or Executor Timothy Wayne Manning

201 S. Madison, P.O. Box 160
Madisonville, Texas 77864

ORDERS OF COURT

4-1-19 APPLICATION FOR PROBATE OF WILL AND ISSUANCE OF LETTERS TESTAMENTARY / Tom Blaney

CASE NO. P19 008

PROBATE DOCKET

CASE NO. P19 008 ESTATE OF Billy Joe Colwell - Deceased

Name of Applicant, Administrator
Guardian or Executor Timothy Wayne Manning

Attorney Frank L. Tinsley

201 S. Madison, P.O. Box 1160
Madisonville, Texas 77864

ORDERS OF COURT

4-1-19 APPLICATION FOR PROBATE OF WILL AND ISSUANCE OF LETTERS TESTAMENTARY Timothy Wayne Manning